IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

MONDAY, THE 4TH JUNE 2007 / 14TH JYAISHTA 1929

OP.No. 23242 of 2000(P)

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PETITIONER:

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P.T.ANTONY, LOWER DIVISION CLERK,
CIVIL CONSTRUCTION WING,
ALL INDIA RADIO & T.V.,
KAKKANAD, KOCHI.

BY ADV. SRI.K.VIJAYACHANDRA MENON

RESPONDENTS:

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1. THE EXECUTIVE ENGINEER,
CIVIL CONSTRUCTION WING,
ALL INDIA RADIO & T.V.,
KAKKANAD, KOCHI.

2. CHIEF EXECUTIVE OFFICER,
PRASAR BHARATHI (BCJ),
ALL INDIA RADIO,
NEW DELHI.

3. UNION OF INDIA REPRESENTED BY SECRETARY,
MINISTRY OF INFORMATION AND BROADCASTING,
NEW DELHI.

BY ADV. SRI.JOHN VARGHESE, ASSISTANT SG

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 04/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP.No. 23242 of 2000(P)

APPENDIX

ORDER ON C.M.P NO.39142/2000 & I.A.NO.6578/2007

DISPOSED OF VIDE JUDGMENT IN THE ORIGINAL PETITION.

SD/- THOTTATHIL B.RADHAKRISHNAN, JUDGE

04/06/2007

PETITIONER'S EXTS:

EXT.P1 TRUE COPY OF ORDER DATED 03/07/1996

EXT.P2 TRUE COPY OF ORDER DATED 20/02/1998

EXT.P3 TRUE COPY OF CIRCULAR DATED 30/11/1998

EXT.P4 TRUE COPY OF LETTER DATED 30/07/1999

EXT.P5 TRUE COPY OF THE LETTER DATED 30/05/2000

EXT.P6 PHOTOCOPY OF THE ORDER DATED 14/02/2006.

RESPONDENTS' EXTS:-

EXT.R1(a) TRUE COPY OF THE FR 15(a)

EXT.R1(b) TRUE COPY OF THE LETTER DATED 04/06/1996

EXT.R1(c) TRUE COPY OF THE RELEVANT PORTION OF THE AUDIT REPORT

EXT.R1(d) TRUE COPY OF THE CIRCULAR DATED 14/10/1998.

\\TRUE COPY//

**THOTTATHIL B. RADHAKRISHNAN, J**

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O.P.No. 23242 of 2000

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Dated this the 4th day of June, 2007

**J U D G M E N T**

Heard.

2. Petitioner was transferred to Kerala on his own request agreeing for reversion and to forgo seniority acquired until such transfer. His scale was refixed from the scale of U.D.C to L.D.C, following such transfer on request. Thereafter, by Ext.P1, he was paid higher grade salary. By Ext.P2 his scale was lowered and, again higher grade was granted as per Ext.P3. By Ext.P5, the Department directed recovery of excess salary paid to the petitioner. That has been stayed by this Court by the interim order, dated 14/08/2000, on C.M.P No.39142/2000.

3. Along with I.A.No.6578/2007, the petitioner has placed Ext.P6, whereby, according to the petitioner, persons similarly situated to him and who were transferred at request by forgoing their earned status in service, have been given certain benefits.

According to the petitioner, if that benefit is extended to him, that would be beneficial and may lead to annulment of the decision of the Department to recover the excess salary paid to the petitioner.

Having regard to what is aforesaid, this petition is disposed of directing that if the petitioner makes appropriate request in that regard, on the basis of Ext.P6, within a period of one month from now, the competent authority shall consider the same and take appropriate decision, in accordance with law. Thereafter, the petitioner will be governed by such decision. The interim order of stay of recovery granted on C.M.P No. 39142/2000 will continue until a decision is taken as aforesaid directed, provided the petitioner makes a representation within the time limit as aforesaid.

**THOTTATHIL B.RADHAKRISHNAN**
**Judge**

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**THOTTATHIL B. RADHAKRISHNAN, J.**

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O.P.No. 23242 of 2000

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**J U D G M E N T**

4th June, 2007